

1 **EDUCATOR POSTRETIREMENT REEMPLOYMENT**

2 **AMENDMENTS**

3 2018 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Jani Iwamoto**

6 House Sponsor: Steve Eliason

7

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies the Postretirement Reemployment Restrictions Act by amending
11 provisions relating to postretirement reemployment for educators.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ provides definitions;
- 15 ▶ allows certain educator retirees to be reemployed with a participating employer after
16 a certain period from the retiree's retirement date if the retiree:
- 17 • does not receive certain employer provided retirement benefits for the
18 reemployment; and
- 19 • is reemployed by a different participating employer than the participating
20 employer that employed the retiree at the time of retirement **⚡→ except in limited circumstances**
20a **⚡→** ; and
- 21 ▶ requires a participating employer to pay certain amounts for a reemployed retiree in
22 certain circumstances;
- 22a **⚡→** ▶ **requires certain member certifications on the retirement application form;** **⚡→**
- 23 ▶ requires the Utah State Retirement Office to report certain information to an interim
24 committee of the Legislature;
- 25 ▶ specifies penalties for violating the reemployment provisions; and
- 26 ▶ makes technical changes.

27 **Money Appropriated in this Bill:**



educator as defined under Section ~~§~~→ ~~[53A-6-103]~~ 53E-6-102 ~~←§~~ ; and

(D) does not receive any employer paid retirement service credit or retirement related contributions from the participating employer; and

(ii) the participating employer that reemploys the retiree pays to the office on behalf of the retiree:

(A) the amortization rate; and

(B) the retiree surcharge.

(b) Any contribution paid to the office under Subsection (4)(a)(ii) shall be applied to the system that would have covered the retiree if the retiree's reemployed position were considered to be an eligible, full-time position within that system.

(c) The office shall, on or before November 30, 2024, study, evaluate, and report on the actuarial costs and effectiveness of implementing the educator retiree reemployment exception authorized under this Subsection (4) to the Retirement and Independent Entities Committee of the Legislature.

(5) (a) (i) A retiree receiving a retirement allowance may be reemployed under the provisions of Subsections (1), (3), and (4) in only one position for only one participating employer at a time following the retiree's retirement date.

(ii) The participating employer shall notify the office which postretirement reemployment exception under this section will govern the retiree's reemployment.

(b) A retiree reemployed under the provisions of Subsection (1), (3), or (4) may change reemployment to a new position under the provisions of Subsection (1), (3), or (4) only if:

(i) the retiree ceases actual work and is terminated from the current reemployed position;

(ii) except as provided in Subsection (8), begins the subsequent reemployment with a participating employer that is a different participating employer than:

(A) the participating employer for the retiree's current reemployment; and

(B) the participating employer that employed the retiree at the retiree's original time of retirement; and

(iii) the participating employer or retiree notifies the office of the change in reemployment and provides evidence of the termination and change to the office.

~~[(4)]~~ (6) (a) If a retiree is reemployed under the provisions of Subsection (1) [or], (3),

or (4), the termination date of the reemployment, as confirmed in writing by the participating employer, is considered the retiree's retirement date for the purpose of calculating the separation requirement under Section 49-11-1204.

(b) If a retiree changes reemployment to another position under the provisions of Subsection (1), (3), or (4), the final termination date of all reemployment, as confirmed in writing by the last participating employer, is considered the retiree's retirement date for the purpose of calculating the separation requirement under Subsection 49-11-505(3)(a).

~~[(b)]~~ (7) The office shall cancel the retirement allowance of a retiree for the remainder of the calendar year if the reemployment with a participating employer exceeds the limitation under Subsection (1)(a)(iii) or (3)(b).

(8) Notwithstanding Subsections (4)(a)(i)(B) and (5)(b)(ii), a reemployed retiree that was employed by ~~§~~ → :

(a) ←§ the State of Utah at the time of retirement may be reemployed by the state under Subsection (4) or (5) if the reemployment is with a different agency or office ~~§~~ → [] ; or

(b) a participating employer located within a county of the fourth, fifth, or sixth class, as classified under Section 17-50-501, may be reemployed by that participating employer under Subsection (4) or (5) if before the retiree is reemployed:

(i) the participating employer certifies to the office, under penalty of fraud, the facts and circumstances of rehire, including any prearrangement for reemployment before the member's retirement date; and

(ii) the office performs a facts and circumstances review and determines there was a bona fide termination of employment with that participating employer, including the specific finding that there was not a prearrangement for reemployment before the member's retirement date. ←§

Section 3. Section 49-11-1206 is amended to read:

49-11-1206. Notice of postretirement reemployment.

(1) A participating employer shall immediately notify the office:

(a) if the participating employer reemploys a retiree;

(b) whether the reemployment is subject to Section 49-11-1204 or Subsection 49-11-1205(1), (2), ~~or~~ (3), (4), or (5); and

(c) of any election by the retiree under Section 49-11-1204.

(2) A participating employer shall certify to the office whether the position of an elected official is or is not full time.

(3) A retiree subject to this part shall report to the office the status of the reemployment

206 under Section 49-11-1204 or 49-11-1205.

206a **§→ (4) The retirement application form submitted to the office shall contain the retiring**
206b **member's certification, under penalty of fraud, of whether there was a prearrangement of**
206c **reemployment before the retiree's retirement date with the participating employer. ←§**

207 Section 4. Section 49-11-1207 is amended to read:

208 **49-11-1207. Postretirement reemployment -- Violations -- Penalties.**

209 (1) (a) If the office receives notice or learns of the reemployment of a retiree in
210 violation of Section 49-11-1204 or 49-11-1205, the office shall:

211 (i) immediately cancel the retiree's retirement allowance;

212 (ii) keep the retiree's retirement allowance cancelled for the remainder of the calendar
213 year if the reemployment with a participating employer exceeded the limitation under